

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

CAROLYN GATOV,

Plaintiff,

vs.

Case No. 08-CV-12901
HON. GEORGE CARAM STEEH

AETNA LIFE INSURANCE COMPANY,
HEWITT ASSOCIATES, LLC, CHRYSLER, LLC,
and JUDITH CRUICKSHANK,

Defendants.

_____ /

ORDER DENYING PLAINTIFF'S MOTION AND AMENDED MOTION FOR
DEFAULT JUDGMENT AGAINST DEFENDANT CHRYSLER, LLC (#19, #20)

Plaintiff Carolyn Gatov moves for entry of default judgment against defendant Chrysler, LLC. Oral argument would not significantly aid the decisional process. Pursuant to E.D. Mich. Local R. 7.1(e)(2), it is ORDERED that the motion be resolved without oral argument.

Gatov filed her complaint on July 8, 2008 alleging non-party Wade Gatov died on October 11, 2007, and that life insurance benefits were improperly paid to Wade Gatov's mother, defendant Judith Cruickshank, instead of Wade Gatov's wife, plaintiff Carolyn Gatov. Gatov alleges violations of the Employee Retirement Income Security Act, 29 U.S.C. § 1001, et seq., breach of contract, breach of fiduciary duty, negligence, conversion, and unjust enrichment.

Gatov filed a motion and amended motion for entry of default judgment against defendants Hewitt Associates and Chrysler, LLC on August 19, 2008. The court denied

the motions with respect to defendant Hewitt Associates on August 25, 2008. Gatov argues that she is entitled to entry of default judgment against defendant Chrysler, LLC because Chrysler failed to file a timely answer after being served with the complaint on July 14, 2008.

Chrysler has proffered documentary evidence establishing that it was not served with Gatov's complaint until August 20, 2008. Chrysler filed its answer on August 21, 2008. Gatov has not filed a reply brief or evidence indicating Chrysler was served before August 20, 2008. Gatov did not apply for, and the Court Clerk has not entered, Chrysler's default under Federal Rule of Civil Procedure 55. Default judgment is a drastic remedy that should only be applied in the most extreme cases. United Coin Meter, Inc. v. Seaboard Coastline, RR, 705 F.2d 839, 845 (6th Cir. 1983). Gatov has failed to demonstrate she is entitled to default judgment. Accordingly,

Plaintiff Carolyn Gatov's motions for default judgment with respect to defendant Chrysler, LLC are hereby DENIED.

SO ORDERED.

Dated: September 24, 2008

s/George Caram Steeh
GEORGE CARAM STEEH
UNITED STATES DISTRICT JUDGE

CERTIFICATE OF SERVICE

Copies of this Order were served upon attorneys of record on September 24, 2008, by electronic and/or ordinary mail.

s/Josephine Chaffee
Deputy Clerk